

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**MARK STAAKE,**

**Plaintiff,**

**v.**

**No. 18-cv-0729 JCH/SMV**

**DAVID JABLONSKI, GERMAN FRANCO,  
GARY MACIEL, LEON MARTINEZ, MIKE BACA,  
ANDY RAY, CENTURION HEALTHCARE,  
FNU FRENCH, AMY ZAGON, LORETTA TOAPIN,  
KEVIN CARDENAS, and ELLEN WITTMAN,**

**Defendants.**

**ORDER GRANTING PLAINTIFF'S MOTION TO PROCEED PURSUANT TO  
28 U.S.C. § 1915(b) AND TO MAKE PAYMENTS OR SHOW CAUSE**

THIS MATTER is before the Court on Mark Staake's Motion to Proceed *In Forma Pauperis* [Doc. 2, supplemented by Doc. 5], filed July 30, 2018, in connection with his Civil Rights Complaint [Doc. 1]. Plaintiff's financial information reflects he is unable to prepay the \$400.00 filing fee for this action. The Court will therefore grant the Motion, which reduces the fee to \$350.00, and allow Plaintiff to pay in installments. *See* 28 U.S.C. § 1915(b) (2012). Plaintiff must make an initial partial payment of "20 percent of the greater of—(A) the average monthly deposits to the prisoner's account; or (B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint." *Id.* Thereafter, Plaintiff is "required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account" until the \$350 fee is paid in full. *Id.* § 1915(b)(2).

Plaintiff commenced this case on July 30, 2018. [Doc. 1]. During the preceding six months, his average month deposits were \$435.66, and his average monthly account balance was

\$1,728.50.<sup>1</sup> [Doc. 5]. The Court will assess an initial payment of \$345.70 (which is 20% of the greater figure, \$1,728.50) pursuant to § 1915(b)(1)(A). The Court will generally not review the merits of Plaintiff's civil rights complaint unless the initial partial payment is paid or excused. If Plaintiff fails to timely make the initial partial payment, his complaint may be dismissed without further notice.

**IT IS THEREFORE ORDERED** that Plaintiff's Motion for Leave to Proceed *In Forma Pauperis* [Doc. 2] is **GRANTED**.

**IT IS FURTHER ORDERED** that, within thirty (30) days from entry of this Order, Plaintiff shall send to the Clerk an initial partial payment of \$345.70 or show cause why the payment should be excused.

**IT IS FURTHER ORDERED** that the Clerk is directed to provide Plaintiff with two copies of this Order, and that Plaintiff make the necessary arrangements to attach one copy of this Order to the check in the amount of the initial partial payment.

**IT IS FINALLY ORDERED** that, after payment of the initial partial fee, Plaintiff make monthly payments of twenty percent (20%) of the preceding month's income credited to his account until the \$350 fee is paid in full or show cause why the designated payments should be excused.

**IT IS SO ORDERED.**



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**STEPHAN M. VIDMAR**  
**United States Magistrate Judge**

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<sup>1</sup> These figures are unusually high due to a \$5,000 deposit from Corizon Health, Inc. on March 21, 2018. The Court must consider this outlier deposit because 28 U.S.C. § 1915(b)(1) explicitly calls for an average, not a median.